

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,  
Plaintiff,

v.

JOHNNY COLON,  
Defendant.

CRIMINAL ACTION

No. 99-745

**MEMORANDUM/ORDER**

Defendant Johnny Colon has filed a Motion Requesting Sentencing Transcripts (docket no. 46), in order to determine if “the Sentencing Court . . . committed error when it imposed sentence.” The record reflects that Mr. Colon was sentenced on February 19, 2003. As the time for any direct appeal of defendant’s sentence has long since lapsed, *see* Fed. R. App. P. 4(b) & (c), the court construes defendant’s request as one in aid of a motion to vacate, set aside, or correct a sentence pursuant to 28 U.S.C. § 2255.

Pursuant to 28 U.S.C. § 753(f), “[f]ees for transcripts furnished in proceedings brought under [28 U.S.C. § 2255] to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.” Thus, in order to receive a free transcript in proceedings under § 2255, the defendant-petitioner must (1)

file a petition under 28 U.S.C. § 2255; (2) receive permission to proceed *in forma pauperis* by following the procedures in 28 U.S.C. § 1915(a); (3) demonstrate that the suit “is not frivolous”; and (4) show that the documents are necessary “to decide the issue presented.” *See, e.g., United States v. Raghunathan*, 288 Fed. Appx. 2, 4 (3d Cir. 2008); *Walker v. People Express Airlines, Inc.*, 886 F.2d 598 (3d Cir. 1989). Defendant has not fulfilled any of these requirements.

Accordingly, until such time as defendant fulfills the above requirements, it is hereby ORDERED that his motion requesting sentencing transcripts is DENIED.

BY THE COURT:

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/s/Louis H. Pollak  
Pollak, J.  
September 30, 2009